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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,778	09/24/2007	Patrick Blin	17058	4414
66061 7590 03/19/2010 MEADWESTVACO CORPORATION ATTN: IP LEGAL DEPARTMENT 1021 MAIN CAMPUS DRIVE RALEIGH, NC 27606				
EXAMINER DESAL KAUSHIKKUMAR A				
ART UNIT 3728		PAPER NUMBER		
NOTIFICATION DATE 03/19/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketadministrator@mwv.com

Office Action Summary

Application No.

10/599,778

Applicant(s)

BLIN, PATRICK

Examiner

KAUSHIKKUMAR DESAI

Art Unit

3728

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-17, 19-22, 25 and 29-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 19-22, 25 and 29-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Amendments and Applicant Arguments submitted on 12/10/2009 have been received and its contents have been carefully considered.

Claims 1-14, 18, 23, 24 and 26-28 are cancelled.

Claims 15-17, 19-22 and 25 are amended.

Claims 29-38 are new.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-17, 19-21, 25 and 29-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4372477 to Wytko, in view of US 1812311 to Wolf,
3. As to claims 15, 29 and 31, Wytko discloses a carton (10, fig 1) comprising an open top container (12), said open top container, said open top container including a series of wall panels (15-18), said open top container is reinforced by a series of integral reinforcing panels (61, 63, 65 and 67, fig 1) hinged respectively to said wall panels along an upper periphery of said open top container, each reinforcing panel is disposed in overlapping relationships with a respective one of said wall panels (fig 5); Wherein said open top container comprise at least one reinforced handle aperture (fig 1) struck

from at least one of said reinforcing panels (61 and 65). Wytko lacks a top closure connected to said open top container; wherein said at least one handle aperture is located at an elevation above said top closure. Wolf teaches a top closure (3, fig 1) connected to said open top container (1), formed from separate blanks (fig 2), comprises at least one end flap (14-17, fig 1) hingedly connected thereto, and said at least one end flap (16, 17) is folded downward. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Wytko open top container with top closure as taught by Wolf in order to provide a cover to serve the purpose of keeping the content separate in organized fashion. It has been held that, "A combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int 'l v. Teleflex Inc.*, 127 S.Ct. 1731, 82 USPQ2d at 1396. Regarding, top closure end flap to lie in a plane of said at least one reinforcing panel to avoid covering said at least one handle aperture and the handle aperture to be above top closure, it is noted that applicant has not indicated criticality for the claimed top closure and handle aperture location limitations. It would have been obvious and within ability of one having ordinary skill in the art at the time of the invention to orient and dispose the top closure below the handle aperture such that downward end flap lie in a plane of reinforcing panel avoiding end flap covering the handle aperture and at the same time providing handle aperture above the top closure, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). MPEP 2144.04 VI-C.

As to claim 16, Wytko modified in view of Wolf discloses top closure (3) disposed at an elevation below said upper periphery (50, fig 2) of said open top container (10).

As to claim 17, Wytko modified in view of Wolf provides a top closure (3) disposed at an elevation substantially equal to the elevation of a lower extremity of reinforcing panels (61).

As to claim 19, Wytko modified in view of Wolf discloses top closure (3) comprises apertures (18, fig 2) for receiving articles, and wherein each of said apertures has a frangible connection (20) with at least another one of said apertures to facilitate removal of said articles.

As to claim 20, Wytko modified in view of Wolf discloses that after removal of articles the carton retains sufficient structural integrity (reinforcing panels are unitary, column1:44-47), so that the carton can be re-used for returning empty articles upon removal of said articles.

As to claim 21, Wytko modified in view of Wolf discloses a reinforcing panels (61, 63, 65, 67) are hingedly (at 50, fig 1) connected to the open top container entirely along said upper periphery of said open top container.

As to claim 25, Wytko modified in view of Wolf discloses that top closure (3, fig 1) comprises a main panel (13) and a plurality of flaps (14-17) hingedly connected to said main panel along a periphery of said main panel, and wherein a first pair of oppositely disposed ones of said flaps (14 and 15) are folded upwardly from said main panel and a second pair of oppositely disposed ones of said flaps (16 and 17) adjacent to said first

pair are folded downwardly of said main panel, and wherein said at least one end flap comprises said oppositely disposed flaps of said second pair (fig 1).

As to claim 30, Wytko as modified in view of Wolf discloses at least one end flap (14) is disposed in a plane of at least one reinforcing panel (63).

As to claim 32, Wytko as modified in view of Wolf discloses open top container comprises at least one second reinforced handle aperture struck from at least one of said wall panels (15) adjacent to said at least one reinforcing panel (61), said first and second reinforced handle apertures are aligned with each other to provide a single handle opening (fig 5).

As to claim 33, Wytko as modified in view of Wolf does not expressly discloses that at least one end flap is disposed below the elevation of a lower extremity of said reinforcing panels. It would have been obvious and within ability of one having ordinary skill in the art at the time of the invention to position at least one end flap disposed below the elevation of a lower extremity of said reinforcing panels, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). MPEP 2144.04 VI-C.

As to claim 34, Wytko as modified in view of Wolf discloses top closure further comprises at least one securing end flap hingedly connected thereto, and said at least one securing end flap (14) is secured in a flat face contacting relationship to at least another one of said reinforcing panels (63) to lock said top closure within said open top container.

As to claim 35, Wytko modified in view of Wolf discloses at least one securing end flap (14, fig 2) is folded upward.

As to claim 36, Wytko as modified in view of Wolf discloses at least one securing end flap (14) is in flat face contacting relationship between said at least other reinforcing panel (61) and an upper portion of an adjacent one of said wall panels (15).

As to claim 37, Wytko modified in view of Wolf discloses oppositely disposed flaps of said first pair (14 and 15) are secured in flat face contacting relationship to other ones of said reinforcing panels (63 and 67) to lock said top closure within said open top container.

As to claim 38, Wytko modified in view of Wolf discloses each of said oppositely disposed flaps of said first pair (14, and 15) is secured in flat face contacting relationship between a respective one of said other reinforcing panels (63 and 67) and an upper portion of an adjacent one of said wall panels (16 and 18).

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wytko, in view of Wolf as applied to claim 15 above, further in view of US 3027060 to Beder.

Wytko modified in view of Wolf discloses the claimed invention except each reinforcing panel hingedly connected to at least an adjacent one of said reinforcing panels. Beder teaches that each reinforcing panel (14A, fig 1) is hingedly connected to at least an adjacent one of said reinforcing panels (14B). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make modified Wytko's reinforcing panel hingedly connected to an adjacent one of said reinforcing

panels as taught by Beder in order to provide stronger reinforcement on the edges of the open top container. "A combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int 'l v. Teleflex Inc.*, 127 S.Ct. 1731, 82 USPQ2d at 1396.

Response to Arguments

5. Applicant's arguments filed 12/10/2009 have been fully considered, however it is noted that claims 18, 23, 24 and 26-28 have been canceled, and all of its limitations have been incorporated into claim 1, changing the meets and bounds of the amended claim 1, the search has been updated, and a new relevant prior art combination has been identified and applied. For this reason, the argument is not persuasive, and the same applies to dependent claims. The arguments have been addressed in the body of the rejections, at the appropriate locations.

Conclusion

6. **Prior Art not relied upon:** Refer to the references listed in attached PTO-892.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAUSHIKKUMAR DESAI whose telephone number is (571)270-7290. The examiner can normally be reached on Monday- Friday 7:00 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. D./
Examiner, Art Unit 3728
Wednesday, March 17, 2010

/J. Gregory Pickett/
Primary Examiner, Art Unit 3728